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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-first session

SUMMARY RECORD OF THE 1547th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 August 2002, at 10 a.m.

Chairman: Mr. AMIR
(Vice-Chairman)

later: Mr. DIACONU
(Chairman)

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In the absence of Mr. Diaconu, Mr. Amir, Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Seventh to fourteenth reports of Mali (continued) (CERD/C/407/Add.2)

1. At the invitation of the Chairman, the members of the delegation of Mali resumed their places at the Committee table.
2. Mr. COULIBALY (Mali), responding to Committee members' questions, said that the Government of Mali appreciated the Committee's concern about its difficult economic situation. On the subject of descent-based discrimination, he said that the existence of a caste system in Mali entailed no discrimination of any kind. The system bore no relation to the Indian one. Members of castes were never shunned by other social groups and participated in public and professional life at the highest levels. Among them were political leaders, government officials, members of the army and the security forces, major economic actors and members of the diplomatic corps. Such castes were only evident during such ceremonies as marriage and baptism, for example. Furthermore, the Government in no way encouraged or sustained the caste system, and it was felt that over time such practices would be abandoned. The Government ensured that all citizens respected the Constitution and laws of Mali, and racial discrimination played no role.
3. The National Advisory Commission on Human Rights worked on a regular basis with the competent authorities to promote human rights. The Ombudsman also played a strong role in protecting human rights. He had, for instance, intervened in the case of a pharmacist whose business had been closed down by administrative error; with the assistance of the Ombudsman, the pharmacist had sued the State, which had been obliged to pay him compensation. Another example was the case of a government official who had been refused university admission, also an administrative error. In that case, the Ombudsman had contacted the Rector and the official had been admitted.
4. The mission undertaken in 1997 at the request of Mali by the Office of the High Commissioner for Human Rights had resulted in progress in all the identified objectives, and an exchange of communications had followed.
5. The Government had launched a National Poverty Reduction Strategy, which aimed to enhance growth, increase competition and create favourable conditions for the participation of the population in the benefits of growth while ensuring their access to basic social services. The strategy had three thrusts: stronger economic growth; greater human and social development; and enhanced institutional development for good governance.
6. With regard to the National Poverty Reduction Strategy, the implementation of articles 2 and 4 of the Convention, and the Committee's warning to the Malian Government in 1994 that the ban on political parties and associations formed on a regional or ethnic basis could run the

risk of becoming the instrument used by one ethnic group against another or by the State against one ethnic group, he said that, in the view of the Government of Mali, tolerance toward political parties or associations formed on a regional or ethnic basis could well destabilize national cohesion and the harmony existing between ethnic groups and regions. The State must ensure that such associations did not provide the occasion for ethnic groups insidiously to attack each other. At the same time it was aware of the need to pay special attention to the relevant jurisprudence and to reports of discriminatory actions.

7. With respect to the talibés, and the garibous he said that a number of legal provisions on the rights of children had been adopted by Mali, which addressed the situation of such children. In addition, a national anti-begging programme had been launched. The Government had instituted national children's councils throughout the country; recently the children themselves had discussed the question of street children. The Government had also created a children's city, had established listening and placement centres, and was preparing a report for the Committee on the Rights of the Child. Mali had ratified all international instruments related to the rights and protection of children, including the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. It had also concluded treaties with Côte d'Ivoire on cross-border traffic in children, and was in continual contact with Burkina Faso on that subject. Legislative and regulatory texts had been adopted with a view to controlling the departure of Malian children from the national territory. Moreover, Mali had participated in various international conferences related to the protection of children, and had taken certain measures as a result.

8. According to recent census figures, women made up just over half of the Malian population. Only 28 per cent of all marriages were polygamous. The Government of Mali had participated in successive World Conferences on Women, had supported the United Nations Decade for Women, and had ratified the Convention on the Elimination of All Forms of Discrimination against Women. As a consequence of the Fourth World Conference on Women, held in Beijing, Mali had identified six priority areas for the advancement of women. In 1997, the Commission for the Advancement of Women had become the Ministry in charge of the Advancement of Women, Children and the Family. Among the measures taken to promote the education, health and economic potential of women and to lift the barriers to their advancement was the establishment of a joint government and civil society committee, an inter-ministerial coordinating committee on the promotion of women, children and the family, and a women's rights guidance committee. In addition, national, regional and subregional offices and services for women had been instituted, as had training centres for rural women leaders and a programme to support equality between men and women; technical counsellors on gender-related issues had also been appointed at the ministerial level. A pilot programme on the role of women in peacekeeping operations had been launched by agreement between the Governments of Mali and Canada, a project of significant interest given the growing participation of Malian soldiers in peacekeeping operations throughout the world.

9. Nearly 91 per cent of all Malian women between the ages of 15 and 49 had been subject to female genital mutilation. Efforts were under way, however, to persuade practitioners to turn in their knives in exchange for assistance in establishing micro-projects or in training for other professions.

10. The blood ritual involved an exchange of oaths, and the drinking of the blood of elders by younger warriors; its purpose was to dissolve the barriers between members of a group before they went to war. It was also related to family names.

11. With respect to article 6, the Committee would be provided with information on any and all complaints lodged or judicial actions initiated in connection with racist offences. Regarding article 7, the Government was undertaking efforts to improve the literacy rate, in particular in rural areas, where 34 per cent of the population could not read or write. It was also taking measures to provide electricity and running water in homes and schools, as well as such services as micro-irrigation, with a view to easing women's work, increasing their income and enabling them to participate in village affairs.

12. The Government of Mali joined in the unanimous international condemnation of the terrorist attacks of 11 September 2001. It had taken special measures, in conjunction with the United States Government, to increase security for that country's embassy in Bamako. It was doing all it could; there was nothing more to be said. Mali had participated in the World Conference against Racism held in 2001 and agreed that the international community should make every effort to combat racism in all its forms.

13. Mr. de GOUTTES (Country Rapporteur) said that he welcomed the resumption of the dialogue with Mali after a lapse of 15 years. He thanked the delegation for its replies to the Committee's questions, while regretting that no members of the Government had travelled from Bamako for the consideration of the report. The report contained much useful information concerning the ethnic composition of Mali, a mosaic or melting pot of nomadic and sedentary peoples. He welcomed the reassuring information provided by the delegation on the situation of the Tuareg people, and the useful clarifications on the economic and social realities and legal framework of the country.

14. Although the report provided a full description of the constitutional and legislative texts that prohibited racism, it gave no information on the implementation of those texts in practice. He commended the inception of human rights training for officials, the promotion of ethnic languages, the strengthening of press freedoms, and the growing role of non-governmental organizations (NGOs). He noted that, in general, the rural population was at a disadvantage in relation to the urban one.

15. In preparation for the next periodic report, the Government should focus its attention, in particular, on the place of the Convention in the national legal hierarchy, and on the possibility for an individual to invoke that instrument before the courts. It should also give priority to the National Poverty Reduction Strategy. In addition, it should focus on the practical implications of legislation related to article 4 of the Convention, and gather information on complaints and legal proceedings regarding violations of article 6. It should provide more information on child victims of exploitation, on the situation of rural women, and on the impact of HIV/AIDS and other endemic diseases on the population of Mali. Historical information on the blood rite described by the delegation would also be welcome.

16. The Government should clarify its approach toward the persistence of castes based on family or trade. It should also describe what measures it was taking to inform the public of the Committee's observations and recommendations, and was invited to consider both the declaration under article 14 of the Convention and the amendment to article 8.

17. The CHAIRMAN, thanking the delegation, said that the Committee looked forward to further dialogue with the reporting State.

18. The delegation of Mali withdrew.

The meeting was suspended at 10.50 a.m. and resumed at 11.05 a.m.

19. Mr. Diaconu took the Chair.

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Canada (continued) (CERD/C/61/Misc.1/Rev.1)

20. The CHAIRMAN invited the Committee to resume its consideration of its draft concluding observations concerning the thirteenth and fourteenth periodic reports of Canada.

21. Mr. ABOUL-NASR said that, as a general observation, the draft concluding observations contained too many references to Aboriginal peoples at the expense of other minority groups. He was particularly concerned that not enough space had been devoted to the discriminatory treatment of Muslims in Canada after the terrorist attacks of 11 September 2001.

22. The CHAIRMAN said that he tended to agree, but it might prove awkward to insert such references in other paragraphs of what was already a lengthy document.

Paragraph 18

23. The CHAIRMAN suggested deleting the sentence about the second generation cut-off rule in the Indian Act.

24. Paragraph 18, as amended, was adopted.

Paragraph 19

25. Mr. LINDGREN ALVES said that the paragraph was overly specific and should be deleted.

26. Mr. HERNDL (Country Rapporteur) said that, although it was a matter of some concern that the Aboriginal peoples had boycotted the consultation process on the First Nations Governance Act, the Canadian Government appeared to be well aware of its responsibilities and, as he understood it, would attend to the matter before submitting its next report. He was therefore inclined to delete the paragraph.

27. Mr. KJAERUM said that he would prefer to retain the paragraph, if only to signal the Committee's concern that such an important government initiative had been boycotted by the very people it was supposed to benefit.

28. Mr. LINDGREN ALVES, speaking from personal experience in Brazil, said that the reasons why indigenous peoples opposed government initiatives and programmes were not always clear.

29. The CHAIRMAN said he took it that the majority of members favoured deletion of the paragraph.

30. Paragraph 19 was deleted.

Paragraphs 20 and 21

31. The CHAIRMAN, supported by Ms. JANUARY-BARDILL, suggested that paragraphs 20 and 21 should be combined.

32. Mr. PILLAI said that the issues raised in the two paragraphs were so important they should both be retained.

33. Mr. ABOUL-NASR said that they should be deleted since they both concerned isolated cases.

34. Mr. HERNDL (Country Rapporteur), following a suggestion by Mr. LINDGREN ALVES, proposed that paragraph 20 should be deleted and paragraph 21 redrafted to read "The Committee reiterates its concern about the high rate of incarceration of, violence against and death in custody among Aborigines and people of African and Asian descent, and recommends that the next periodic report of the State party contain information on the efficiency of programmes adopted with a view to reducing these phenomena, and on the result of any inquiries undertaken."

35. Paragraph 20 was deleted and paragraph 21, as amended, was adopted.

Paragraph 22

36. The CHAIRMAN suggested that the last sentence of the paragraph should be deleted.

37. Paragraph 22, as amended, was adopted.

Paragraph 23

38. The CHAIRMAN suggested that paragraph 23 should be deleted and partially merged with paragraph 27.

39. Mr. HERNDL (Country Rapporteur) said that, although he had no objection in principle to combining the two paragraphs, they had originally been drafted separately because they touched on different articles of the Convention.

40. Paragraph 23 was deleted.

Paragraph 24

41. Mr. THORNBERRY queried the phrase “somewhat excessive” in the first sentence

42. Mr. HERNDL (Country Rapporteur) agreed that another formulation was needed, as “excessive” was a relative concept. The final sentence should also be deleted.

43. Mr. PILLAI proposed the wording “the present level of the right of landing fee”.

44. Mr. BOSSUYT said that, given that most of Canada’s population was composed of migrants, he was unhappy about the use of the word “migrants” in the second sentence. “Illegal immigrants” would perhaps be more accurate.

45. Mr. KJAERUM said that he favoured deletion of the second sentence containing the word “migrants”, since the Committee lacked sufficient information on which to base its assertion. He assumed that, nowadays, most immigrants to Canada were of African or Asian descent, so it was hardly surprising from the statistical point of view that those groups should account for the majority of expulsions.

46. Mr. HERNDL (Country Rapporteur) said that the information which the Committee had received indicated that blacks accounted for most of the expulsions, but it was certainly true that the claim had not been substantiated. Nevertheless it was a matter to which the Committee’s attention had been drawn.

47. Mr. ABOUL-NASR said that none of the statements made by the Committee in its concluding observations was ever backed up by proof. But the point was that an exchange of views had taken place with the State party, the matter had been raised and the reporting State had responded.

48. The CHAIRMAN suggested replacing the word “migrants” by the word “foreigners” in the second sentence.

49. Paragraph 24, as amended, was adopted.

Paragraph 25

50. Paragraph 25 was adopted.

Paragraph 26

51. Mr. ABOUL-NASR said that the word “encourages” should be replaced by “requests” in the third sentence.

52. Mr. HERNDL (Country Rapporteur) said that the second sentence should restate explicitly what the Canadian Prime Minister had said at the Ottawa Central Mosque, namely his unequivocal condemnation of any acts of intolerance and hatred against Muslims.

53. Mr. VALENCIA RODRIGUEZ said that the word “disproportionately” should be removed from the last sentence of the paragraph.

54. Paragraph 26, as amended, was adopted.

Paragraph 27

55. The CHAIRMAN suggested that the first sentence of deleted paragraph 23 should be combined with paragraph 27 in the following manner: “The Committee is concerned about information on existing patterns of racial discrimination affecting people of African and Asian descent and about expressions of prejudice in the media against such people, as well as against foreigners and refugees. It is further concerned ...”.

56. Paragraph 27, as amended, was adopted.

Paragraph 28

57. Mr. YUTZIS said that the first sentence would be clearer if it talked of a “significant”, rather than “certain”, disparity and if the word “relatively”, which was superfluous, was deleted.

58. Mr. ABOUL-NASR said that, to avoid confusion, it should be specified that the human rights commissions referred to were Canadian.

59. Mr. PILLAI said it should also be clarified that they were federal or State commissions.

60. Mr. SICILIANOS said that the basic problem, as explained to him by various Canadian NGOs, was that no appeal was possible against a human rights commission’s decision on the inadmissibility of a complaint and the person lodging the complaint then had no access to the courts.

61. Mr. HERNDL (Country Rapporteur) suggested that the term “Canadian human rights institutions” would cover all the federal and State human rights bodies. In his opinion, the main problem - the fact that so few cases were deemed admissible - concerned the working methods of those institutions, which appeared to be suffering from a lack of resources. He did not think it would be appropriate to raise questions about the actual competence of those institutions to decide on the admissibility of complaints under the Canadian Human Rights Act.

62. Mr. SICILIANOS insisted that the denial of access to justice by a decision of a non-judicial body was a systemic problem, not a question of resources.
63. The CHAIRPERSON suggested that the Committee should express its concern that the decisions of the human rights institutions precluded the interested parties from taking their complaints to the courts.
64. Mr. AMIR observed that it was too often the case that States parties were hindered in implementing the Convention by their own legislation, which they should adapt to the requirements of the Convention.
65. Mr. HERNDL (Country Rapporteur) stressed that individuals whose complaints had been deemed inadmissible by one of the human rights commissions could not pursue their case further under the Human Rights Act but they could still lodge civil complaints or press criminal charges in the courts. The screening function performed by the commissions was in fact inspired by provisions of the European Convention on Human Rights for screening out unjustified complaints.
66. Mr. VALENCIA RODRIGUEZ said that the allocation of resources was an internal matter for the State party, and proposed that the second part of the second sentence should be replaced by, simply, “in accordance with article 6 of the Convention”.
67. Mr. SICILIANOS agreed with that proposal and suggested that the first sentence should talk of the “discrepancy” between the number of complaints received and the “small number of positive decisions on admissibility”. There was a difference between screening out unjustified complaints at the supranational level and denying people access to justice at a very early stage of domestic proceedings.
68. Mr. THORNBERRY supported the suggestions by Mr. Sicilianos, Mr. Valencia Rodríguez and Mr. Yutzis.
69. Paragraph 28, as amended, was adopted.

Paragraph 29

70. The CHAIRMAN suggested that only the last sentence, with the word “therefore” omitted, should be retained.
71. Paragraph 29, as amended, was adopted.

Paragraph 30

72. The CHAIRMAN pointed out that the reservations referred to in the paragraph were not reservations to a treaty but to a political statement, the Declaration and Programme of Action of the World Conference against Racism, and he did not believe it was appropriate for the Committee to comment on a State party’s reservations to such a political statement.

73. Mr. LINDGREN ALVES said that the NGOs he had talked to had all insisted that the Canadian Government, while asserting how constructive it had been in the preparations for the World Conference, had refused to support the outcome of the Conference, to the point of abstaining in the vote on it in the General Assembly. Moreover, when questioned by the Committee about the reasons for its reservations, the Canadian delegation had simply replied that they had been widely disseminated, without actually giving any reasons.

74. Mr. BOSSUYT said that the Canadian delegation at the World Conference had clearly indicated that its reservations concerned the paragraph on the Middle East and the question of reparation, and those reservations had indeed been widely disseminated in the report on the Conference (A/CONF.189/12). As those reservations had nothing to do with racial discrimination per se, he agreed with the Chairman that it was not appropriate to refer to them in the concluding observations.

75. Mr. TANG Chengyuan said he, too, felt that such a reference was inappropriate.

76. Mr. YUTZIS pointed out that, even if the reservations had no legal status, they still sent out a strong message.

77. Mr. BOSSUYT said that he did not see how the Committee could possibly refer to the “absence of any more detailed information on those reservations” when the reservations were readily available in the report on the World Conference. He therefore proposed that the phrase “despite the reservations expressed by Canada on those documents” should be inserted after “at national level” and that the last two sentences should be deleted.

78. Mr. VALENCIA RODRIGUEZ supported Mr. Bossuyt’s proposal.

79. Mr. DE GOUTTES said he agreed with the thrust of the proposal but suggested that it would be preferable to include a phrase at the beginning of the paragraph such as “Although the State party has expressed reservations on the documents adopted at the World Conference”.

80. Mr. LINDGREN ALVES said that, given the Canadian Government’s attitude to the outcome of the World Conference, the word “recommends” should be replaced by “insists”.

81. Mr. HERNDL (Country Rapporteur) said that the first part of the paragraph was a standard formula to be used in addressing all States parties, but “recommends” could be replaced by “strongly recommends” to reflect the fact that there were special circumstances, namely the State party’s reservations to the final documents of the World Conference.

82. Paragraph 30, as amended, was adopted.

Paragraph 31

83. Paragraph 31 was adopted.

Paragraph 32

84. Mr. BOSSUYT said that the date in the last sentence of the paragraph should be corrected to reflect the normal gap between periodic reports.

85. The CHAIRMAN suggested that the first sentence should read: “The Committee requests that, when drafting the next report, the Canadian Government should follow the sequence of the articles of the Convention, and include subsections on measures adopted at all levels by provincial and territorial governments”, and that the following two sentences should be deleted.

86. Paragraph 32, as amended, was adopted.

87. The draft concluding observations concerning the thirteenth and fourteenth periodic reports of Canada as a whole, as amended, were adopted subject to minor drafting changes

ORGANIZATIONAL AND OTHER MATTERS (agenda item 4) (continued)Draft general recommendation on descent-based discrimination (continued)
(CERD/C/61/Misc.29)

88. The CHAIRMAN invited the Committee to resume its consideration of the draft general recommendation.

Paragraph 45 (continued)

89. Mr. THORNBERRY suggested that, considering the strong views expressed by some Committee members about the term “manual scavenging” in paragraph 45, the paragraph should be amended to read: “To take resolute measures to eliminate debt bondage, and the practice of manual scavenging insofar as it is associated with descent-based discrimination”. He added that it had never been his intention to disparage manual work.

90. Mr. ABOUL-NASR, referring to the difficulties experienced by some Committee members in understanding the meaning of “scavenging”, stressed the importance of using simple language comprehensible to all.

91. The CHAIRMAN suggested replacing “manual scavenging” by “manual labour, in particular scavenging”.

92. Mr. BOSSUYT proposed the insertion of “certain types of” before “manual work”.

93. Mr. PILLAI, pointing out that manual scavenging was a particular problem in India and was closely linked to descent-based discrimination, said he nonetheless took Mr. Aboul-Nasr’s point. He could accept the Chairman’s suggested formulation, which had a broader meaning.

94. Mr. AMIR suggested the addition of such a phrase as “and to provide appropriate, humane health and safety protection in certain types of manual work” to the revised formulation.

95. Mr. de GOUTTES suggested that, in order to avoid stigmatizing all manual labour, it might be more appropriate to insert “certain types of exceptionally arduous manual labour, in particular” between “of” and “manual scavenging”.

96. Mr. BOSSUYT pointed out that the aim was not to eliminate manual work per se, but descent-based discrimination associated with it.

97. Mr. THIAM recalled that the Committee’s true objective should be the elimination of discrimination and not manual work. Despite their degrading character, certain tasks had to be performed, particularly in developing countries where mechanized services did not yet exist. The emphasis should be on the conditions in which arduous forms of labour were performed. If the public’s perception of those types of manual work were to change positively, and the pay and conditions of the people who were obliged to perform them were improved, that would go a long way towards eliminating descent-based discrimination.

98. Mr. THORNBERRY proposed the following wording: “To take resolute measures to eliminate debt bondage, and degrading conditions of labour associated with descent-based discrimination.”

99. Paragraph 45, as amended, was adopted.

Measures in the field of education

Paragraph 46

100. Mr. THIAM proposed replacing “affected” in paragraph 46 by “all”.

101. Mr. SICILIANOS requested clarification of that proposal.

102. Mr. THORNBERRY said that the proposed change to the wording would cause the text to lose its specificity.

103. Mr. LINDGREN ALVES said that he understood Mr. Thiam’s concern and proposed replacing “include and do not exclude children of affected communities” in paragraph 46 by “include children of all communities and do not exclude any children on the basis of descent”.

104. Paragraph 46, as amended, was adopted.

Paragraph 47

105. Mr. THIAM proposed replacing “affected” by “all”, explaining that, in many African school systems, children did not necessarily drop out of school as a result of discrimination; many were forced to leave because of a lack of educational provision. The fault lay with Governments who failed to fulfil their obligation to improve access to education. In the case of girls, their mothers were even actively encouraged to remove them from school to help in the home.

106. Mr. LINDGREN ALVES, supported by Mr. RESHETOV, pointed out that, since the text as a whole dealt with descent-based discrimination, it was necessary to refer to “affected” communities in order to identify a particular area of concern. The paragraph did not deal with the rights of children in general, but focused on those who suffered discrimination on the grounds of descent.

107. Mr. de GOUTTES said that a compromise solution might be to refer to all communities, in particular affected communities.

108. Mr. THIAM observed, in response to the point made by Mr. Lindgren Alves, that paragraph 49 already referred specifically to “communities subject to descent-based discrimination” and that, therefore, his proposed amendment would not affect the focus of the document.

109. Mr. AMIR said he felt that the text should be amended to reflect the fact that, in many countries, girls of 14, or even less, were forced to leave school to get married.

110. The CHAIRMAN said that to do so would unduly broaden the scope of the text and suggested the following wording based on Mr. de Gouttes’ proposal: “To reduce school drop-out rates for children of all communities, in particular affected communities, with special attention to the situation of girls.”

111. Paragraph 47, as amended, was adopted.

Paragraph 48

112. Mr. THORNBERRY, proposed clarifying the wording by amending it to read: “To combat discrimination by public or private bodies against students who are members of descent-based communities or any harassment of such students.”

113. Paragraph 48, as amended, was adopted.

Paragraphs 49 and 50

114. Paragraphs 49 and 50 were adopted.

115. The CHAIRMAN recalled that, with regard to the section headings “Economic, social and cultural rights” and “Measures in the field of education”, the view had been expressed that, strictly speaking, education belonged under “Economic, Social and cultural rights”.

116. Mr. SICILIANOS said that the problem might be solved by inserting “Specific” before “measures” in the heading of the section on education.

117. Mr. THORNBERRY suggested changing the preceding chapter heading from “Economic, social and cultural rights” to “Measures in the field of employment, housing and health”.

118. Mr. SICILIANOS pointed out that, in their current form, the three last sections of the document broadly corresponded to the structure of article 5 of the Convention and it would be a pity to destroy that continuity.

119. Mr. BOSSUYT said that paragraphs 25 to 45 did not deal with cultural issues and should more appropriately constitute a section headed “Economic and social rights”. The section that included paragraphs 46 to 50 could then be entitled “Cultural rights/education”.

120. The draft general recommendation on descent-based discrimination as a whole, as amended, was adopted.

The meeting rose at 1.05 p.m.